

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.20793 of 2013
and
MP.No.2 of 2013

K.N.Jayaraman

... Petitioner

vs.

The Sub-Collector (Revenue) cum
Authorised Officer (Land Reforms),
Government of Puducherry,
Karaikal,
Puducherry.

... Respondent

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent pertaining to the order dated 10.06.2013 passed in proceedings bearing No.MRI-16 and quash the same and consequently, direct the respondent to remove the lands in Survey Nos.271/3 and 274/1 in No.15, Melakasakudy Village, Nedungadu Firka, Thirunallar Taluk, Karaikal from the caption "land ceiling" in all revenue records within a time limit fixed by this Court.

For Petitioner : Mr.J.Ravikumar

For Respondent : Mrs.D.Reena Iswariya,
Addl. Govt. Pleader (Pondicherry)

ORDER

The petitioner has come up with the present writ petition challenging the order dated 10.06.2013 passed by the respondent and consequently, directing the respondent to remove the lands in Survey Nos.271/3 and 274/1 bearing No.15, Melakasakudy Village, Nedungadu Firka, Thirunallar Taluk, Karaikal from the caption "land ceiling" in all the revenue records within a time limit fixed by this Court.

2. The facts of the case, as per the averments made in the writ petition, are as follows:

2.1 The petitioner is the owner of the lands measuring to an extent of 5.06.20 Hectares in S.No.274/1, to an extent of 00.50.00 Hectares in S.No.269/2, to an extent of 1.04.00 Hectares in S.No.271/3 and to an extent of 0.14.50 Hectares in S.No.271/4 situated at No.15, Melakasakudy Revenue Village, Nedungadu Firka, Thirunallar Taluk, Karaikal and he along with his wife and son, has been in possession and enjoyment of the said lands by doing cultivation. Originally, the lands in question forming part of a larger extent of lands, were purchased by his father Nagalingam and after his death, the same were partitioned among his legal heirs viz., the petitioner and his mother Pranambal, brother Jaganathan and two sisters, by a deed dated 14.01.1967 registered as Document No.591 of 1967, on the file of the Sub Registrar Office, Karaikal.

2.2 In the year 1975, the respondent initiated the proceedings under the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 against the mother of the petitioner viz., Pranambal and her children viz., the petitioner and his brother Jaganathan, by treating them as one family unit. The same was objected by the petitioner and his mother and brother, stating that separate returns have been filed by each of them with regard to their respective holdings and there was no surplus land exceeding the ceiling limit held by them. However, the respondent rejected the said objection and issued a Draft Statement dated 14.10.1975 declaring the lands held by the petitioner and his mother and brother as surplus lands in excess of ceiling limit to an extent of 2.41.30 Hectares and caused it to be published in the official Gazette on 30.10.1975. The petitioner and his mother and brother duly filed their objections to the respondent, who rejected the same by order dated 22.04.1976. Challenging the same, the petitioner's mother filed an appeal in L.T.C.M.A.No.30 of 1976 along with I.A.No.314 of 1976 and obtained an order of interim stay. Subsequently, by order of the learned Sub Judge, Karaikal dated 25.08.1976, the said Land Tribunal Appeal was allowed by setting aside the draft statement of the respondent.

2.3 While the interim order passed by the Land Tribunal was in force, the respondent appeared to have issued a final statement dated 24.05.1976 declaring that the petitioner's mother Pranambal was holding surplus lands to the extent of 2.41.30 Hectares and published the same in the Official Gazette on 04.06.1976. In this regard, no notice or information regarding filing of further appeal or revision against the order passed by the Land Tribunal, was received by the petitioner from the respondent.

2.4 In the mean time, the petitioner's mother Pranambal died on 11.10.2000. Thereafter, the petitioner and his brother Jaganathan executed a registered partition deed dated

31.03.2007 in respect of their properties among themselves. In the year 2008 only, the petitioner came to know about the final statement issued by the respondent dated 04.06.1976, declaring the lands held by Pranambal as surplus lands, through a notification in Tamil daily "Dina Thanthi". He immediately approached the respondent and obtained a copy of the final statement. Thereafter, he submitted a detailed representation dated 02.04.2009 narrating all the events and enclosing the copy of the order passed by the Land Tribunal and requested the respondent to drop all further proceedings in this regard. However, there was no response on the part of the respondent.

2.5 In July 2012, the officials of the respondent without any notice, swooped down on the petitioner's lands and also inspected several lands in the vicinity. When the petitioner enquired about the same, he did not get any information. Therefore, apprehending that the respondent would interfere with his peaceful possession and enjoyment of the lands in S.Nos.271/3 and 274/1, he filed a writ petition in WP.No.22261 of 2012, questioning the illegal action of the respondent. By order dated 16.08.2012, the said writ petition was disposed of, by directing the respondent to consider and pass orders on the petitioner's representation. Pursuant to the same, the respondent passed an order dated 10.06.2013, rejecting the petitioner's request with regard to removal of the lands in question from the surplus lands under the Land Ceiling Act. Aggrieved over the same, the petitioner is before this court with the present petition for the above stated relief.

3. The respondent has filed a detailed counter affidavit, wherein, it has been stated as follows:

3.1 As per the Pondicherry Land Reforms (Fixation of Ceiling On Land) Act, 1973, (hereinafter shortly referred to as 'Act') the petitioner's mother Pranambal W/o.Nagalinga Padayatchi, was found in possession of the lands measuring to an extent of 10.66.83 Hectares in Melakasakudy Revenue Village in Thirunallar Taluk and Kovilpathu Revenue Village in Karaikal Taluk and she had not voluntarily filed her returns as prescribed under Section 7(1) of the Land Reforms Act. Hence, notice in Form-4 was issued to her and her son Jaganathan, who thereafter, filed their respective returns on 01.07.1975 in respect of the holdings held in their names.

3.2 On the basis of the information furnished and on verification of the revenue records, it was found that the said Pranambal was holding and was in possession of excess extent. Therefore, notice in Form -5 was sent to Jaganathan calling upon him to furnish additional particulars and make representation if any. On receipt of the same, the said Jaganathan duly submitted his detailed representation stating his different extent of holdings. Thereafter, on 02.10.1975, the learned counsel on

behalf of him appeared before the respondent and filed an additional statement, stating as follows:

(i) Jaganathan being a major son as on 24.01.1971 constitutes a separate person;

(ii) Jayaraman being minor and Selvi. Sundarambal being unmarried daughter are to be treated as persons 'in their individual capacity';

(iii) Pranambal being widow on the appointed date, constitutes a separate person.

3.3 In response to the above, the respondent has issued the following statements:

"(a) The draft statement, Form -8 under sub section (1) of Section 9 of the Pondicherry Land Reforms Act vide Gazette No.205 dated 30.10.1975.

(b) The final statement, Form -10 under section 11/section 13 of the Pondicherry Land Reforms Act vide Gazette No.226 dated 04.06.1976".

After the publication of the final statement, the petitioner's mother Pranambal filed an appeal against the order of the authorised officer and the Land Tribunal (Sub Judge), Karaikal allowed the appeal by setting aside the order passed by the respondent dated 22.04.1976 in M.R.I/16. While doing so, the Land Tribunal observed that no question of determination of surplus land arises in this case.

3.4 The policy of the Act appears to be that on and after the appointed day, no person in the State should be permitted to hold any land in excess of the ceiling area as determined under the Act and as per Section 6 of the Act, the ceiling area would be that extent, which is determined as on the appointed day. Hence, the order of the Land Tribunal is per incuriam.

3.5 It is also stated that in this case, the Land Reforms proceedings are as per law and the petitioner's lands in S.Nos.271/3 and 274/1 in Melakasakudy Revenue Village comes under the ambit of the Land Ceiling Act. Therefore, the respondent prayed for dismissal of this writ petition.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Pondy) appearing for the respondent and perused the materials placed before this court.

5. It is not in dispute that in the year 1975, the respondent initiated the proceedings under the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 against the petitioner and his mother Pranambal and brother Jaganathan by treating them as one family unit. Thereafter, the respondent issued a draft statement dated 14.10.1975 declaring that the petitioner's mother held surplus lands in excess of ceiling limit to the extent of 2.41.30 Hectares and published the same in the

Official Gazette on 30.10.1975, to which, the petitioner and his relatives filed their objections. However, the respondent rejected their objections and held their holdings as surplus lands by order dated 22.04.1976 made in No.M.R.I/16. Challenging the same, the petitioner's mother Pranambal filed LTCMA No.30/1976 along with I.A.No.314/1976 before the Land Tribunal (Sub Judge), Karaikal and obtained an interim order of stay. Subsequently, by order dated 25.08.1976, the Land Tribunal allowed the said appeal by setting aside the order of the respondent dated 22.4.1976 and made the interim order passed in I.A.No.314/1976 absolute. While doing so, the Land Tribunal observed that no question of determination of surplus land arises in this case. In the mean while, the respondent issued the final statement declaring the holdings of Pranambal as surplus lands and published the same in the official Gazette on 04.06.1976. Thereafter, the respondent passed the impugned order dated 10.06.2013 stating that the surplus lands declared vide Gazette No.226 dated 04.06.1976 remains unaltered and the lands in R.S.No.271/3 and 274/1 cannot be removed from the surplus lands, which have been declared under the Land Ceiling Act. Aggrieved over the same, the petitioner is before this Court.

6. Learned counsel for the petitioner challenged the impugned order on the following grounds: (i)When the interim order of stay was in force, the respondent issued the final statement dated 04.06.1976 and such act of the respondent is non-est in law. (ii)The Land Tribunal allowed the appeal filed by the petitioner's mother and made the interim order absolute on 25.08.1976, against which, no appeal or revision was filed by the respondent. Therefore, the order of the Land Tribunal dated 25.08.1976 has attained finality. In such circumstances, the impugned order passed by the respondent is grave error by overruling the order of the Appellate Authority.

7. This Court finds considerable force in the grounds raised on the side of the petitioner. When the interim order of the Land Tribunal was in force, the final statement declaring the holdings of the petitioner's mother as surplus lands was published on 04.06.1976. Subsequently, by order dated 25.08.1976, the Land Tribunal allowed the appeal filed by the petitioner's mother and made the interim order absolute, by observing that no question of determination of surplus lands arises, against which, no appeal or revision, according to the petitioner, was filed. Further, as per the averments made in the counter filed by the respondent, there is no specific reference with regard to filing of any revision or appeal against the order of the Tribunal. Hence, the order of the Land Tribunal has attained finality. When the statement issued by the respondent is set aside, the question of determining the lands in question as surplus lands does not arise. In such circumstances, the respondent ought to have considered the petitioner's request to remove the lands in

question from the land ceiling, whereas, the respondent issued the impugned order by confirming the final statement published on 04.06.1976. Therefore, in my considered view, the impugned order is not legally sustainable and same is liable to be set aside.

8. Accordingly, the writ petition is allowed and the impugned order dated 10.06.2013 passed by the respondent is set aside. The respondent is directed to remove the lands in Survey Nos.271/3 and 274/1 in No.15, Melakasakudy Village, Nedungadu Firka, Thirunallar Taluk, Karaikal from the caption "land ceiling" in all the revenue records, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

The Sub-Collector (Revenue) cum
Authorised Officer (Land Reforms),
Government of Puducherry,
Karaikal,
Puducherry.

1 cc to Mr.J. Ravikumar, Advocate, Sr. 15577

1 cc to Government Pleader for Pondicherry, Sr. 15689

WP.No.20793 of 2013

SCD (CO)

kk 22/4

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